

## REMARKS

Applicant respectfully requests reconsideration of this application. Claims 1-24 are pending. No claims have been amended, canceled, or added.

### **Rejection of Claims 1-24 Under 35 U.S.C. § 112**

Claims 1-24 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Office Action asked, “how could a switch output either one of the outgoing optical signals if both of them are failed?” (Office Action, p. 2, last paragraph) Applicant respectfully traverses the rejection. It is respectfully submitted that a failed signal is different from a non-existent signal. For example, a signal may be deemed to be failed if the signal is corrupted. Therefore, a switch may nevertheless output a signal even when the signal fails, knowing that the signal output may remain failed. Thus, claims 1-24, as they currently stand, particularly point out and distinctly claim the subject matter which applicant regards as the invention. Withdrawal of the rejection is respectfully requested.

### **Rejection of Claims 1, 2, 4, 6, 7, 9, 10, and 12 Under 35 U.S.C. § 103(a)**

Claims 1, 2, 4, 6, 7, 9, 10, 12-17, and 19-23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,433,900B1, of Kuroyanagi et al. (“Kuroyanagi”), in view of U.S. Patent No. 7,242,860B2, of Ikeda et al. (“Ikeda”). Applicant respectfully traverses the rejection.

Claim 1 sets forth:

***maintaining a state of the switch*** to continue outputting the only one of the first and the second outgoing optical signals if both of the first and the second outgoing optical signals have failed.

(Claim 1; emphasis added)

In contrast, neither Kuroyanagi nor Ikeda, alone or in combination, teaches the above limitation. As admitted in the Office Action, Kuroyanagi fails to teach the above limitation (Office Action, p. 4, first paragraph). Likewise, Ikeda also fails to teach the above limitation. According to Ikeda, if failure occurs in both the working and the protection lines, the signal goes to the second Working Receiver via protection line(s) ***in inverse [sic] direction*** as shown in Figure 12 (Ikeda, col. 7, ln. 66 – col. 8, ln. 2; emphasis added). Because the signal goes through the protection line(s) in ***reverse direction*** as illustrated in Figure 12 of Ikeda, the states of the switches within the nodes have changed. Thus, Ikeda does not teach maintaining a state of the switch to continue outputting the only one of the first and the second outgoing optical signals if both of the first and the second outgoing optical signals have failed.

Because neither Kuroyanagi nor Ikeda, alone or in combination, teaches the above limitation, claim 1 is patentable over Kuroyanagi in view of Ikeda. Withdrawal of the rejection is respectfully requested.

Claims 9, 13, and 19 are also patentable over Kuroyanagi in view of Ikeda for the reason discussed above with respect to claim 1. Claims 2, 4, 6, 7, 10, 12, 14-17, and 20-23 depend, directly or indirectly, from claims 1 and 9, respectively. Thus, claims 2, 4, 6, 7, 10, 12, 14-17, and 20-23 are patentable over Kuroyanagi in view of Ikeda. Withdrawal of the rejection is respectfully requested.

**Rejection of Claims 3 and 11 Under 35 U.S.C. § 103(a)**

Claims 3 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kuroyanagi, in view of Ikeda, as applied to claims 2 and 10 above, and further in view of U.S. Patent No. 6,898,376B1, of Gerstel et al (“Gerstel”). Applicant respectfully traverses the rejection. Claims 3 and 11 depend from claims 1 and 9, respectively. For the reason discussed above with respect to claim 1, neither Kuroyanagi nor Ikeda, alone or in combination, teaches “*maintaining a state of the switch* to continue outputting the only one of the first and the second outgoing optical signals if both of the first and the second outgoing optical signals have failed.” Furthermore, Gerstel also fails to teach the above limitation. Gerstel merely discloses a processor to receive system protocols and IDs from a system manager computer and to report back status to the system manager computer (Gerstel, col. 3, ln. 23-45; col. 3, ln. 64 – col. 4, ln. 15). Gerstel does not teach maintaining a state of the optical switch to continue outputting the only one of the first and the second outgoing optical signals if both of the first and the second outgoing optical signals have failed.

Since none of Kuroyanagi, Ikeda, and Gerstel, alone or in combination, teaches all limitation set forth in claims 3 and 11, claims 3 and 11 are patentable over Kuroyanagi in view of Ikeda and Gerstel. Withdrawal of the rejection is respectfully requested.

**Rejection of Claims 5, 8, 18, and 24 Under 35 U.S.C. § 103(a)**

Claims 5, 8, 18, and 24 are rejected 35 U.S.C. § 103(a) as being unpatentable over Kuroyanagi, in view of Ikeda, and further in view of U.S. Patent No. 6,556,319B2, of Feinberg et al. (“Feinberg”). Applicant respectfully traverses the rejection. Claims 5, 8, 18, and 24 depend, directly or indirectly, from claims 1, 13, and 19, respectively. For the reason

discussed above with respect to claim 1, neither Kuroyanagi nor Ikeda, alone or in combination, teaches “*maintaining a state of the switch* to continue outputting the only one of the first and the second outgoing optical signals if both of the first and the second outgoing optical signals have failed.” Furthermore, the other reference, Feinberg, also fails to teach the limitation set forth above. According to Feinberg, the optical system has two paths, namely, a service path and a protection path. If a processor determines that a service path is not operating normally, then the processor sends control signals to at least one of the last few line units on the second branch path (protection path), to instruct those line units to increase their power output levels to a normal power output state. (Feinberg, col. 3, ln. 60-67) Feinberg does not teach maintaining a state of the optical switch to continue outputting the only one of the first and the second outgoing optical signals if both of the first and the second outgoing optical signals have failed.

Since none of Kuroyanagi, Ikeda, and Feinberg, alone or in combination, teaches all limitation set forth in claims 5, 8, 18, and 24, claims 5, 8, 18, and 24 are patentable over Kuroyanagi in view of Ikeda and Feinberg. Withdrawal of the rejection is respectfully requested.

## CONCLUSION

Applicant respectfully submits that the rejections have been overcome by the remarks and the amendments, and that the application is in condition for allowance.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. If any other petition is necessary for consideration of this paper, it is hereby so petitioned.

If there are any additional charges, please charge Deposit Account No. 02-2666 for any fee deficiency that may be due.

Respectfully submitted,

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